

IN THE UNITED STATES COURT OF FEDERAL CLAIMS

HARVARD PILGRIM HEALTH CARE, INC.,	)	
HPHC INSURANCE COMPANY, INC., AND	)	
HARVARD PILGRIM HEALTH CARE OF	)	
NEW ENGLAND, INC.,	)	Case No. 20-578
	)	Senior Judge Loren Smith
Plaintiffs,	)	
	)	
v.	)	
	)	
THE UNITED STATES,	)	
	)	
Defendant.	)	

**JOINT STATUS REPORT**

Pursuant to the Court’s January 19, 2023 Order, the parties respectfully submit this Joint Status Report. The January 19, 2023 Order continued the stay in these proceedings and directed the parties to file a joint status report proposing further proceedings by March 17, 2023.

In July 2021, shortly after the U.S. Supreme Court denied the petition for writ of certiorari (No. 20-1162) and the Government’s conditional cross-petition (No. 20-1432) in *Maine Community Health Options v. United States*, which sought review of the Federal Circuit’s CSR decision in *Community Health Choice, Inc. v. United States*, Nos. 2019-1633, -2102, 2020 WL 4723757 (Fed. Cir. Aug. 14, 2020), the parties began discussions regarding the next steps in this litigation. Several different attorneys, collectively representing a large number of plaintiff health plans—including the plaintiff here—engaged Government counsel in discussions regarding potential resolution of the CSR matters through settlement.

The parties’ resolution efforts are progressing. On December 3, 2021, Plaintiffs’ counsel shared a proposal with the Government to attempt to collectively resolve the damages and mitigation issues in the CSR cases without further litigation or to significantly streamline

resolution of the remaining damages/mitigation issues in these cases. On April 28, 2022, the Government responded to Plaintiffs' proposal, and Plaintiffs responded on May 23, 2022. Thereafter, the parties have convened by phone multiple times, and the Government produced certain settlement-related data and other information to the plaintiffs on July 22, 2022. The parties participated in a settlement-related call on September 1, 2022, and the CSR Plaintiffs followed that call with a letter to the Government on September 15, 2022. The Government responded to CSR Plaintiffs by letter dated November 10, 2022. On January 10, 2023, the CSR Plaintiffs responded to the Government's letter. The parties participated in conference calls on Thursday, January 19, 2023, and Friday, February 24, 2023 to discuss the latest settlement proposal.

The parties respectfully request that the stay of this matter continue for an additional 60 days, at which time the parties will file a joint status report. Good cause exists for the Court to continue the existing stay of this case. The parties are working together to determine whether they may efficiently resolve this matter without further litigation or can at least streamline the damages and mitigation issues in this case. The parties are aware that this negotiation process has been a long one. But they maintain that the number of stakeholders, and the complexity of a global resolution, necessitates the careful back-and-forth that has thus far made progress on a potential resolution. The parties have significantly narrowed the issues to be resolved and believe that they are close to a final determination as to whether the methodology they have been discussing can be used. For this reason, the parties respectfully request that the stay continue—if a resolution is possible, it will conserve judicial resources not only in this proceeding but in the approximately 25 proceedings currently before the Court. The parties therefore jointly propose

that they file a status report by May 17, 2023, in which the parties will update the Court on the status of their efforts to resolve this matter.

March 17, 2023

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Respectfully submitted,

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